

Senate File 261 - Introduced

SENATE FILE 261

BY FEENSTRA

A BILL FOR

1 An Act relating to prohibitions under the smokefree air Act,
2 and making penalties applicable.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 142D.2, subsection 21, Code 2017, is
2 amended to read as follows:

3 21. "*Smoking*" means inhaling, exhaling, burning, or
4 carrying any lighted or heated cigar, cigarette, pipe, or any
5 other lighted or heated tobacco or plant product intended for
6 inhalation, including hookahs and marijuana, whether natural
7 or synthetic, in any manner or in any form. "*Smoking*" also
8 includes the use of an electronic smoking device which creates
9 an aerosol or vapor, in any manner or in any form, or the use
10 of any oral smoking device. "*Smoking*" does not include smoking
11 that is associated with a recognized religious ceremony,
12 ritual, or activity, including but not limited to burning of
13 incense.

14 Sec. 2. Section 142D.4, subsection 10, Code 2017, is amended
15 by striking the subsection.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to the prohibitions under the smokefree
20 air Act (Code chapter 142D).

21 The bill amends the definition of "smoking" to include
22 inhaling, exhaling, burning, or carrying any heated cigar,
23 cigarette, pipe, or any other lighted or heated tobacco or
24 plant product intended for inhalation, including hookahs and
25 marijuana, whether natural or synthetic, in any manner or in
26 any form. "Smoking" also includes the use of an electronic
27 smoking device which creates an aerosol or vapor, in any manner
28 or in any form, or the use of any oral smoking device.

29 The bill also eliminates the exception under the smokefree
30 air Act allowing smoking on the gaming floors of the premises
31 licensed pursuant to Code chapter 99F (gambling structures,
32 excursion gambling boats, and racetracks). The bill thereby
33 subjects the entirety of these premises to the smoking
34 prohibitions of the Act.

35 Under Code chapter 142D, various penalties are applicable

1 to violations relating to smoking. A person who smokes in an
2 area where smoking is prohibited is subject to a civil penalty,
3 which is a scheduled fine of \$50. A person who owns, operates,
4 manages, or otherwise has custody or control of a public place,
5 place of employment, area declared a nonsmoking place, or
6 outdoor area regulated under Code chapter 142D and who fails
7 to comply with the Code chapter is subject to a civil penalty
8 ranging from an amount not to exceed \$100 for a first violation
9 to an amount not to exceed \$500 for each additional violation
10 in excess of a second violation in a year. An employer who
11 discharges or in any manner discriminates against an employee
12 because the employee has made a complaint or has provided
13 information or instituted a legal action under the Code chapter
14 is subject to a civil penalty of not less than \$2,000 and
15 not more than \$10,000 for each violation. In addition to
16 civil penalties, a person who owns, operates, manages, or
17 otherwise has custody or control of a public place, place of
18 employment, area declared a nonsmoking place, or outdoor area
19 regulated under the Code chapter may be subject to suspension
20 or revocation of any permit or license issued to the person for
21 the premises on which the violation occurred. Violation of the
22 Code chapter constitutes a public nuisance which may be abated
23 by restraining order, preliminary or permanent injunction,
24 or other means provided by law, and the entity abating the
25 public nuisance may take action to recover the costs of such
26 abatement. Each day on which a violation of the Code chapter
27 occurs is considered a separate and distinct violation.